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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,142

07/03/2003

Patrick M. Cullen

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6836

37372

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12/01/2006

EXAMINER

MULLEN, KRISTEN DROESCH

FULBRIGHT & JAWORSKI, L.L.P. (ANS)

2200 ROSS AVENUE

SUITE 2800

DALLAS, TX 75201-2784

ART UNIT

PAPER NUMBER

3766

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/613,142	Applicant(s) CULLEN ET AL.	
	Examiner Kristen Mullen	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/7/04, 7/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on 3/31/06.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Meadows (6,381,496)

Regarding claims 15 and 21, Meadows shows a method comprising: placing an implantable pulse generator in an activated mode using an external programming device (turning the device on via ON/OFF on HHP (202)); and sending a program-selection signal to the implantable pulse generator by the external programming device, wherein the implantable pulse generator stores at least two treatment protocol programs (operational parameter sets OPS) (Fig. 6: OPS0, OPS1, OPS2, OPS3) which include at least one pulse parameter and electrode configuration comprising electrode polarities (Col. 11, lines 23-31, Col. 17, lines 3-11), each treatment protocol program (OPS) being associated with at least one stimulation setting, and at least one of the programs being associated with a plurality of stimulation settings; thereafter controlling the operation of the implantable pulse generator by the external programming device

(controlling operation by selecting different OPS or modifying the stored OPS) (Col. 16, line 44-Col. 17, line 45; Fig. 6).

With respect to claims 16-17 and 22-23, Meadows shows delivering a power signal to the implantable pulse generator by the external programming device and the external programming device communicates with the implantable pulse generator using a radio-frequency signal (Fig. 4, Col. 9, line 49-Col. 10, line 19; Col. 16, lines 44-56)

Regarding claims 18 and 24 Meadows shows the external programming device can control the pulse amplitude parameters of the pulses generated by the implantable pulse generator (by changing from one predetermined program to another) (Col. 16, line 44-Col. 17, line 45; Fig. 6).

With respect to claims 19 and 25, Meadows shows the program selection signal designates which of the treatment protocol programs is to be executed by the implantable pulse generator (Col. 17, lines 26- 45).

Regarding claims 20 and 26, Meadows shows a patient can use the external programming device (HHP 202) (Col. 17, lines 26- 45).

Response to Arguments

4. Applicant's arguments with respect to claims 15-26 have been considered but are moot in view of the new ground(s) of rejection.

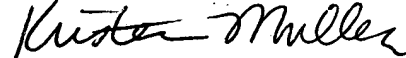
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kristen D. Mullen
Patent Examiner
Temp. Full Signatory Authority
Art Unit 3766

kdm